IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 33417 OF 2006(C)

PETITIONER:

N.S. VARGHESE,
NJARTHANKAL HOUSE, VADAVUKODE P.O.

BY ADV. SRI.M.C.JOHN

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES, ERNAKULAM.

2. THE INTELLIGENCE OFFICER,
SQUAD NO.IV, COMMERCIAL TAXES, ERNAKULAM.

3. THE TAHSILDAR (REVENUE RECOVERY),
KUNNATHUNADU TALUK, PERUMBAVOOR.

GOVT. PLEADER SRI. JULIAN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.12.2006, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 33417 OF 2006

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DATED THIS, THE 15TH DAY OF DECEMBER, 2006.

J U D G M E N T

The challenge made in this writ petition is against an interim order passed by the revisional authority in an interlocutory application seeking stay of realization of penalty amount pending disposal of the revision. The revisional authority after finding a prima facie case, has directed the petitioner to pay 50% of the penalty amount demanded and to furnish security for the balance amount.

2. It is submitted by the learned counsel for the petitioner that the unit itself was one taken over by the Financial Corporation and subsequently, based on Ext.P2 judgment relief was granted and accordingly, he could revive his unit and during the period in question he was suffering from stringent financial difficulties. According to the petitioner, the penalty imposed is without considering the various materials which are placed before the authorities concerned and according to him, if those were taken into consideration, no penalty would be imposed. However, these are all matters to be considered by the revisional authority.

3. In the factual circumstances, there will be an interim direction that in case petitioner pays one third of the penalty amount as assessed in Ext.P3, there will be a stay of collection and realisation of the balance amount. He shall also execute a self bond for the balance amount without sureties. Petitioner shall pay one third of the amount, as directed above, within a period of three weeks failing which he will loose the benefit of this judgment. The order passed by the revisional authority stands modified as above.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-